



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/568,240

02/14/2006

Naomi Nishikata

VPM-00101

9555

26339 7590 04/02/2008
MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY, SUITE 1001
WESTBOROUGH, MA 01581

EXAMINER

HUYNH, NAM TRUNG

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

04/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,240	Applicant(s) NISHIKATA ET AL.	
	Examiner NAM HUYNH	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/13/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 9 and 10 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claims 9 and 10 should refer to the other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 9 and 10 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Glover (US 2003/0157961).

Regarding claim 1, Glover teaches a mobile communication terminal (the combination of the PDA and the peripheral input device) comprising first memory means (page 2, paragraph 22, the peripheral data entry device comprises memory) and second memory means (page 3, paragraph 26, the PDA comprises memory) for memorizing data , and application program execution means for executing an application program

using data memorized in said second memory means (page 2, paragraph 21, programs and applications utilized by the PDA), said mobile communication terminal being characterized by comprising:

detection means for detecting at least one of position, direction, attitude and movement; memory process means for performing memory process to memorize detection result data acquired based on detection results by said detection means in said first memory means (see figure 1, item 10, the peripheral data entry device comprises a directional pad wherein the memory comprised in the peripheral data entry device would store the "detection results"); and

data transfer means for transferring the detection result data memorized in said first memory means to said second memory means, according to a data transfer instruction from said application program execution means; wherein said application program execution means executes said application program using the detection result data memorized in said second memory means (page 2, paragraphs 19, 20, the data stored in the memory of the peripheral data device would be transferred to the PDA via the interface).

Regarding claim 2, Glover teaches the mobile communication terminal the application program execution means has an instruction set for generating said data transfer instruction according to description in said application program (page 2, paragraph 21, the processor of the peripheral data device transfers the appropriate data for the program or application of the PDA).

Regarding claim 3, Glover teaches that a computer in the mobile communication terminal works so that the application program execution means generates said data transfer instruction using said instruction set, by being executed by said application program execution means (page 2, paragraph 21, the processor of the PDA forwards the appropriate data packets received from the peripheral data device to the appropriate program or application).

Regarding claim 4, Glover teaches a mobile communication terminal comprising memory means for memorizing data and application program execution means for executing an application program using data memorized in said memory means (page 2, paragraph 19, 22 and page 3, paragraph 26, both the PDA and the peripheral input device comprises a processor and memory), said mobile communication terminal being characterized by comprising:

a 3-axis magnetic sensor and a 2-axis acceleration sensor used as detection means for detecting at least one of position, direction, attitude and movement in accordance with an detection instruction generated by said application program execution means according to description of said application program (see directional pad in figure 1, the directional pad is two dimensional in direction (X-Y), and is pressed in the (Z) direction, therefore it is inherent that there is a 3-axis magnetic sensor and 2-axis acceleration sensor for detecting a press in a predetermined direction); and

memory process means for memorizing detection result data acquired based on detection results by said detection means in said memory means (page 2, paragraph 22); wherein

said application program execution means executes said application program using the detection result data memorized in said memory means (page 2, paragraph 21).

Regarding claim 5, Glover teaches a mobile communication terminal comprising application program execution means for executing an application program using data memorized in memory means (page 2, paragraph 19, 22 and page 3, paragraph 26, both the PDA and the peripheral input device comprises a processor and memory), said mobile communication terminal being characterized by comprising:

detection means for detecting at least one of position, direction, attitude and movement of said mobile communication terminal (see directional pad in figure 1); and

data process means for performing data process of assigning the detection data of said detection means to predetermined arithmetic expression for calculation and storing the calculation result data in said memory means (page 2, paragraph 20, the data is multiplexed and encapsulated); wherein

said application program execution means executes the application program using the calculation result data memorized in said memory means (page 2, paragraph 21).

Regarding claim 6, Glover teaches a mobile communication terminal comprising application program execution means for executing an application program using data memorized in memory means (page 2, paragraph 19, 22 and page 3, paragraph 26, both the PDA and the peripheral input device comprises a processor and memory), said mobile communication terminal being characterized by comprising:

detection means for detecting at least one of position, direction, attitude and movement of said mobile communication terminal (see directional pad in figure 1); and

data process means for performing data processes of linking mutually between detection data of said detection means or data calculated from this detection data and other data acquired by means other than said detection means (data from the modem), and storing the linked data in said memory means; wherein said application program execution means executes the application program using said linked data memorized in said memory means (page 2, paragraph 20, data from the modem and received inputs are multiplexed and transmitted to the PDA via the interface).

Regarding claim 7, Glover teaches a mobile communication terminal comprising application program execution means for executing an application program using data memorized in memory means (page 2, paragraph 19, 22 and page 3, paragraph 26, both the PDA and the peripheral input device comprises a processor and memory), said mobile communication terminal being characterized by comprising:

detection means for detecting at least one of position, direction, attitude and movement of said mobile communication terminal (see directional pad in figure 1); and

data process means for performing a data process of specifying at least two of detection data of said detection means or data calculated from the detection data, which meet predetermined conditions, and storing the specified data in said memory means (page 2, paragraph 20-22, 24 set of data from the peripheral input device may store more than one input for use with the application or program executed on the PDA);
wherein

said application program execution means executes an application program using said specified data memorized in said memory means (page 2, paragraph 21).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glover (US 2003/0157961) in view of Hartman et al. (US 7,175,529) (hereinafter Hartman).

Glover teaches the limitation set forth in claim 5 and that the mobile communication terminal further comprises radio communication means for communicating outside by wireless communication utilizing radio waves (page 2, paragraph 19, wireless modem for peripheral data entry device), but does not explicitly teach radio wave strength confirmation means for confirming strength of the radio waves utilized by said radio communication means at specified time intervals; wherein said data process means is used as at least one part of said radio wave strength confirmation means and performs said data process when confirming radio wave strength. Hartman teaches a RF receiver module for receiving game signals that

Art Unit: 2617

comprises a receive signal strength indicator (RSSI) level detector module for detecting signals from a game controller that transmits at different time intervals. If the RSSI level is of sufficient strength the detector module sends a data enable signal (confirmation of signal strength at specified time intervals). When the signal is considered valid, the saved game data (perform data process) is passed (column 5, lines 52-67, column 6, lines 26-45). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Glover, to include a RSSI level indicator, as taught by Hartman, in order to inform a user of the invention of the signal strength for playing a game using the modem. This modification enhances the flexibility of the invention by allowing a user to take action in response to signal strength (i.e. a user may move to a location with stronger signal strength while participating in a game).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Okada et al. (US 7,069,044)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAM HUYNH whose telephone number is (571)272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

NTH
3/28/08